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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,809	12/29/2000	George A. Durden	36968/198826	5336

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EXAMINER	
BROWN, RUEBEN M	

ART UNIT	PAPER NUMBER
2623	

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07/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/751,809	DURDEN ET AL.	
	Examiner	Art Unit	
	REUBEN M. BROWN	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _18 April 2008_.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _6-9 & 19-20_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _6-9 & 19-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _10/26/2007_.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 6-9 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oko, (U.S. Pat # 6,947,966), in view of Cowan, (U.S. PG-PUB 2001/0027564 A1) and further in view of Block, (U.S. Pat # 6,675,384).

Considering claims 6 & 9, method for formulating programming content, the system comprising;

'releasing a plot via a website', is met by Oko, col. 4, lines 49-55; col. 6, lines 45-60, which discusses that poll questions may be presented (col. 3, lines 32-40) to viewers to decide on the outcome of a program, or how the program should proceed, (i.e., plot) via several different types of networks 76, such as the Internet (col. 6, lines 45-60).

'receiving user votes via the website', again Oko teaches the Internet (col. 4, lines 49-54; col. 6, lines 45-60; col. 7, lines 49-56) is one of the networks that may be used to interact with the poll questions.

'embedding alternative plots into channels', Oko discuses that the system is enabled to access modified content, but does not discuss that the modified content may be found on different channels. Nevertheless, Cowan discusses a headend that provides substitute programming on a plurality of channels, Fig. 1; Para [0023]- [0025]. *'Sending an instruction to switch to an alternate channel for a particular plot'*, reads on the combination of Oko & Cowan. Specifically, Cowan teaches a base band switch 127 that responds to control signals from controller 135 to selectively connect inputs 192 and 193 to the outputs of the switch, Para [0027]-[0029]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Oko with the feature of placing substitute content on a plurality of channels and switching to at least one of the substitute programming at the headend, at least for the benefit of avoiding the resistance & costs of individually addressed arrangement, as disclosed by Cowan, Para [0006].

'*tabulating the votes and sending instruction for particular alternative plot'* also reads on combination of Oko & Cowan, since the activity of the network server 56 in Oko, which receives, records and tallies the votes of a plurality of viewers, with respect to particular poll questions, see col. 5, lines 1-25; col. 6, lines 10-30 & col. 8, lines 1-15. Oko teaches that the vote is provided to the network provider that tallies the vote and provides the vote results 20 to the content provider, which subsequently modifies the content, col. 8, lines 5-12. Thus the content provider sending the tally results to the network provider reads on *'sending an instruction'*.

It is pointed out that Cowan is particularly compatible with Oko, since the channel switch in Cowan is also based on the determination of a third party. For instance, when a market researcher determines that a signal should be substituted for a normal signal, the controller sends the switch signal to the switching device, [0023], [0029]-[0030].

As for the additionally amended claimed feature of, *'receiving a batch of program data associated with a program'*, *'retrieving a user profile specifying content attributes which a user wishes to block'*, *'scanning the batch of program data in advance* ***to determine a percentage*** *of the program data that will be blocked'*, *'**when the percentage** of the blocked program data exceeds a threshold percentage, then blocking the entire program'*, Oko does not discuss the specifics of such a blocking algorithm. Nevertheless Block, which is in the same field of endeavor, provides a teaching that central station equipment 10 embeds programming labels into programming content, using a label editor 30, which define each segment of program, with

respect to its content attributes, col 2, lines 7-14; col. 4, lines 21-46; col. 5, lines 33-67. Upon delivery, the label codes are decoded by the receiver and **are optionally used to determine the percentage of a program that would be blocked** based on comparing the received label codes of the program with the user profile, see col. 9, lines 41-67 thru col. 10, lines 1-12. The receiver will then block either, only segment/portions of the program or the entire program, if more than a specified threshold, i.e., percentage, would have been blocked, based on the instructions selected by the user, i.e., user profile; see Block col. 13, lines 1-57 & col. 24, lines 32-67 thru col. 25, lines 1-18.

It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Oko with the feature of receiving program content data; blocking some or all of the program, based on the rating data of the program segments, for the desirable improvement of providing the subscriber with a way to control the viewing of programs with particular offensive content, on their screen, as taught by Block, Abstract; col. 1, lines 5-62. Block also teaches that by enabling a user to block an entire program, if more than a certain percentage of the program would have been blocked; thereby allowing the user to avoid the situation, in which a program is being frequently interrupted, see col. 13, lines 45-49.

As for the specifics of, *'receiving control data comprising instructions to alter a display screen at coordinates specified by the control data'*, Block discusses blocking a screen or frame, and states that specific coordinate ranges within a display screen may be blocked, see col. 8, lines 50-67 thru col. 9, lines 1-12; col. 16, lines 26-30, using a Mask technology.

Regarding claim 9, the claimed feature of *'particular alternative plot'* corresponds with *'particular alternative plot'*, as recited in claim 6, and is likewise treated. The claimed *'system for formulating alternate programming, comprises… means for…'* that corresponds directly with subject matter mentioned above in the rejection of claim 6, and is likewise treated.

Considering claims 7-8 & 19-20, sending the instructions to the transmission facility, such that the instruction is automatically sent based on the tabulated votes reads on (col. 5, lines 1-55; col. 6, lines 1-25), which teaches that the content provider(s) sends the tally results to the network provider(s), which reads on the *'instruction'*. As pointed out above, *'the instruction to switch to an alternate channel'*, is met by the disclosure of Cowan, Para [0028], [0038]-[0039].

Regarding claims 8 & 20, *'linking the website to the transmission facility'*, reads on scenario of users answering a poll question via the Internet, and the results being sent to the transmission facility, which is taught by Oko, col. 4, lines 48-55; col. 6, lines 45-60. It is noted that linking does not recite any particular limitations such as using HTML or over a PSTN, etc.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:
(571) 273-8300, (for formal communications intended for entry)
Or:
(571) 273-7290 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623